

Weil, Gotshal & Manges LLP

BY ECF

767 Fifth Avenue
New York, NY 10153-0119
+1 212 310 8000 tel
+1 212 310 8007 fax

March 28, 2023

Honorable Lewis J. Liman
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United State Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: Tobias Moeller-Bertram v. Gemini Trust Co., LLC, et al., No. 1:23-cv-02027 (S.D.N.Y.)

Dear Judge Liman:

Counsel for Defendants Digital Currency Group, Inc. (“DCG”), Gemini Trust Company, LLC (“Gemini”), and Plaintiff Tobias Moeller-Bertram (collectively, the “Parties”) respectfully submit this joint letter concerning the initial pre-trial conference scheduled for April 7 in the above-referenced action (the “Action”).

On March 14, 2023, the Court issued a notice ordering the Parties to appear for an initial pre-trial conference scheduled for April 7, 2023. The Court further ordered the Parties to jointly submit a proposed Case Management Plan and Scheduling Order a week before the initial pretrial conference, which would fall on March 31, 2023. *See* Dkt. No. 8.

On March 14, 2023, simultaneously with the Court’s entry of the initial pre-trial conference, counsel for DCG and Plaintiff filed an unopposed joint letter-motion requesting to stay DCG’s time to answer, move, or otherwise respond to the Complaint in this Action until resolution of Plaintiff’s anticipated motion to remand the Action to the Supreme Court of the State of New York, New York County, and to defer the time for the Parties to submit a proposed schedule responding to the Complaint until after such time. *See* Dkt. No. 9, 9-1. This Court granted the joint letter-motion the following day, on March 15. *See* Dkt. No. 10.

On March 16, 2023, Gemini filed a Motion to Compel Arbitration pursuant to the Federal Arbitration Act, requesting that the Court (i) arbitrate Gemini’s claims in accordance with the applicable arbitration agreements, and (ii) stay this Action pending the outcome of arbitration. *See* Dkt Nos. 14-15.

All Parties have conferred and respectfully submit, subject to the Court's approval, that all discovery and further proceedings should be deferred pending the Court's resolution of the threshold forum issues presented by Plaintiff's anticipated remand motion and Gemini's motion to compel arbitration. Further, all discovery is currently automatically stayed under the Private Securities Litigation Reform Act of 1995. *See* 15 U.S.C. § 78u-4(b)(3)(B).

Accordingly, the parties respectfully request that the Court defer the Parties' preparation of a Case Management Plan and Scheduling Order and adjourn the initial pre-trial conference until after the Court has addressed the threshold forum issues.

Respectfully Submitted,

/s/ Jonathan D. Polkes

WEIL, GOTSHAL & MANGES LLP

Jonathan D. Polkes

Caroline H. Zalka

767 5th Avenue

New York, NY 10153

Telephone: (212) 310-8000

Facsimile: (212) 310-8007

Email: jonathan.polkes@weil.com

Email: caroline.zalka@weil.com

*Attorneys for Defendant Digital Currency
Group, Inc.*

/s/ John F. Baughman

JFB LEGAL, PLLC

John F. Baughman

Maryia Y. Jones

299 Broadway – Suite 1816

New York, NY 10007

Telephone: (212) 548-3212

Facsimile: (212) 310-8007

Email: jbaughman@jfblegal.com

Email: mjones@jfblegal.com

*Attorneys for Defendant Gemini Trust
Company, LLC*

/s/ Hung G. Ta

HGT LAW

Hung G. Ta, Esq.

JooYun Kim, Esq.

250 Park Avenue, 7th Floor

New York, New York 10177

Tel: (646) 453-7288

Fax: (646) 453-7289

Email: hta@hgtlaw.com

Email: jooyun@hgtlaw.com

Attorneys for Plaintiff Tobias Moeller-Bertram